IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6262 OF 2004

The Assistant Commissioner
Kendriya Vidyalaya & Ors. .. Petitioners
V/s
Bhaurao Gulabrao Khairkar .. Respondent

Mr.Suresh Kumar for the Petitioners.
Mr.S.P.Saxena for the Respondent.

CORAM: S.RADHAKRISHNAN &
S.A.BOBDE, JJ.
DATE : 12.10.2004.

P.C.:

1. Heard the learned Counsel for the parties. By this petition, the Petitioners are challenging the order passed by the Central Administrative Tribunal dated 30.9.2002.

2. It appears that the Respondent's services were transferred and the Respondent was allowed to keep the quarters at Colaba as his wife and minor child were staying in the said quarters. There is no complaint that the Respondent did not pay all the requisite charges as were prevailent including the prescribed market rate rent. It appears that the as per the revised order issued by Western Naval Command (Naval Authorities) of the Petitioners dated 28.1.2000 the Market Rent/ Damage Rent of Rs.1812/- per month was enhanced to Rs.3262/- per month with effect from 1.12.1998. It appears that as far as Respondent is

concerned there is no complaint that the Respondent had ever overstayed in the said premises. The Respondent's wife and child continued to stay in the said premises with the requisite permission. The Respondent's family appears to have vacated the premises on 20th January, 2001. The Petitioners appear to have issued notice dated 22nd January, 2001 to the Respondent demanding thereby the Market Rent/ Damage Rent at the rate of Rs.3262/- per month with retrospective effect i.e.from 1.12.1998, giving credit to the amount of Rs.1812/- per month which was already paid. Aggrieved thereby the Respondent had moved the Central Administrative Tribunal (CAT).

3. We have perused the order passed by the CAT allowing the application filed by the Respondent herein. The CAT by its order dated 30.9.2002 has very categorically held that the enhanced damage rent cannot be claimed by the Petitioner with retrospective effect in the case of the Respondent. Admittedly the very first demand made by the Petitioner was only on 22nd January, 2001 by which time, the Respondent had already vacated the quarters.

4. Mr.Suresh Kumar has also fairly stated that the Respondent was not paid any additional house rent allowance in view of 5th Pay Commission.

5. Under the aforesaid facts and circumstances, we find no merit in the Petition. We do not find anything

illegal in the impugned order. We fully concur with the reasoning given by the Central Administrative Tribunal in paragraph No.11 of the Order. Petition accordingly stands dismissed.

(S.RADHAKRISHNAN,J.)

(S.A.BOBDE,J.)